

person appointed. If the applicant accepts the appointment and presents himself/herself for duty within such period of time as the City Manager shall prescribe, the applicant shall be deemed to be appointed; otherwise, the applicant shall be deemed to have declined the appointment.

Section 9.4 Nepotism

(a) No person may be appointed to a position in a department if a member of the immediate family of such person is employed in the department, if the City Manager determines that (a)(1) for business reasons of supervision, safety, security, it would be inappropriate to place one such person under the direct supervision of the other; and (2) the appointment cannot be made so it would not be necessary that one employee be under the supervision of the other; or (b) the placement of both persons in the department involves potential conflicts of interest greater for persons so related than for nonrelated persons, and that such conflicts cannot be resolved by control of duty assignments. The City Manager shall consult with the Union prior to making any such determination.

(b) If such appointment is made, the employees involved shall be assigned, if possible, so that one is not under the direct supervision of the other, or employed to work in conjunction with the other under ordinary circumstances.

(c) If, due to marriage or otherwise, persons employed in a department become members of an immediate family, the department head shall, to the extent possible, assign such persons to duties in such manner that neither is under the direct supervision of the other, and neither is assigned to work in conjunction with the other under ordinary circumstances.

(d) For purposes of this section, "immediate family" includes father, mother, brother, sister, spouse, domestic partner, child, mother-in-law, mother of domestic partner, father-in-law, father of domestic partner, grandparent, grandchild, great-grandparent, great-grandchild, step-child, child of domestic partner, foster child, and step-parent.

Section 10. Probation Period

Section 10.1 Duration

All original and promotional appointments shall be tentative and subject to a probationary period of not less than six months from the date of probationary appointment or promotion.

An employee who is laid off and subsequently appointed as a result of certification from a general employment eligible list to a position in a different classification than that from which laid off shall undergo the probationary period prescribed for the classification to which appointed. Former probationary employees whose names were placed on a re-employment eligible list before they achieved permanent status shall start a new probationary period when appointed from a re-employment eligible list.

Employees who transfer to another position in the same classification shall not be required

to undergo a new probationary period in the position into which transferred.

Section 10.2 Objective of Probationary Period

The probationary period shall be regarded as a part of the testing process and shall be utilized for close observation of the employee's work, for securing the most effective adjustment of a new employee to the position, and for rejecting any probationary employee whose performance does not meet the required standards of work.

Section 10.3 Appointment or Rejection of Probationer

(a) During the probationary period an employee may be rejected at any time by the City Manager without cause, without hearing, and without the right of appeal.

(b) Prior to the conclusion of the probationary period, the department head shall file a written statement with the City Manager recommending permanent appointment, rejecting the probationer or requesting an extension of the probationary period as provided in Subsection 10.5.

(c) Prior to the scheduled termination of the probationary period, the City Manager shall notify the probationer in writing as to whether the service of the probationer has been satisfactory and whether the City desires to retain the employee. If the City Manager notifies the probationer that the performance of the latter has been satisfactory, the City Manager shall appoint the probationer to the position on a regular basis, effective upon the completion of the probationary period. If the City Manager notifies the probationer that the performance of the latter has not been satisfactory, the employment of the employee shall be terminated upon such notice, or the City Manager may extend the probationary period for a specific period of time to allow for further observation and evaluation. If the probationary period is extended, the salary step increase for the employee shall be deferred for the period of time of the extension.

(d) Whenever the City Manager rejects a probationer, the written notice of rejection shall advise the probationer as follows:

(1) That if the probationer believes such rejection is because of allegations of misconduct which have been publicly disclosed under such circumstances that the good name, reputation, honor, or integrity of the probationer has been stigmatized, the probationer has the right to a hearing to provide an opportunity to clear the probationer's name; and

(2) That if the probationer believes such rejection is on account of race, color, ancestry, national origin, religion, sex, marital status, sexual orientation, physical disability, participating in the activities of a labor organization, or the exercise of any right guaranteed to the probationer by statute or constitution, the probationer is entitled to a hearing to determine whether such rejection was, in fact, effectuated upon such invalid basis.

The notice shall advise the probationer that the latter may request such hearing by transmitting to the City Manager in writing not later than 15 days from the date of the notice a

request for a hearing. Such request shall specify the grounds upon which the hearing is requested, as set forth in paragraphs (1) and (2) of this subsection. If the probationer does not request a hearing in the manner prescribed by this section within the period allowed, the probationer shall be deemed to have waived any right to such hearing.

(e) The City Manager shall conduct hearings requested pursuant to this section. If the hearing has been requested pursuant to subsection (c)(2), the probationer shall have the burden of proof that the rejection was effected upon an invalid basis. At the conclusion of such hearing the City Manager may sustain the rejection, reinstate the probationer to probationary status if the probationary period has been completed, or reinstate the probationer to probationary status and extend the probationary period if otherwise permissible, if justified by the evidence presented at the hearing.

(f) If, prior to the hearing, the employee presents to the City Manager a written request that the City Manager be disqualified from conducting the hearing, the City Manager shall assign a designee having no supervisory control over the employee to conduct the hearing. At the conclusion of the hearing, the hearing officer shall recommend to the City Manager the disciplinary action to be taken, if any, and the City Manager shall make a determination and promptly notify the employee in writing of such decision.

Section 10.4 Promotional Probation

An employee who has previously completed the requisite probationary period and who is rejected during a subsequent probationary period for a promotional appointment shall be reinstated to the former position from which the employee was promoted; provided that this subsection shall not be construed so as to prohibit the City from discharging any employee during a subsequent promotional probationary period for those reasons and causes set forth in Section 22 of this Memorandum of Understanding.

Section 10.5 Extension

The probationary period may be extended upon the written recommendation of the employee's department head and the approval of the City Manager for one or more extensions, each not to exceed six months duration.

The Union will be notified in writing of extensions of probationary periods.

Section 11. Promotion

The City shall endeavor to fill vacancies by promotion when in the best interest of the service. In the event the City Manager determines to fill a vacancy by promotion, Human Resources shall prepare and administer an examination for those employees holding similar positions in lower classifications. The names of the successful candidates shall be recorded in the order of their standing in the examination on an employment list. Promotional appointments can only be made from the first three candidates on the employment list who are ready and willing to accept the position offered.